

- (v) Compression: uncompressed data.

[46 FR 2612, Jan. 12, 1981; para. (b)(1), 54 FR 47519, Nov. 15, 1989, effective Jan. 16, 1990; revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (b) and (c) revised, 65 FR 54604, Sept. 8, 2000, effective Sept. 8, 2000 (effective date corrected, 65 FR 78958, Dec. 18, 2000; para. (c) introductory text revised, 70 FR 54259, Sept. 14, 2005, effective Sept. 14, 2005]

INFORMATION DISCLOSURE STATEMENT

§ 1.97 Filing of information disclosure statement.

- (a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with § 1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.
- (b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:
 - (1) Within three months of the filing date of a national application other than a continued prosecution application under § 1.53(d);
 - (2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application;
 - (3) Before the mailing of a first Office action on the merits; or
 - (4) Before the mailing of a first Office action after the filing of a request for continued examination under § 1.114.
- (c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under § 1.113, a notice of allowance under § 1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:
 - (1) The statement specified in paragraph (e) of this section; or
 - (2) The fee set forth in § 1.17(p).
- (d) An information disclosure statement shall be considered by the Office if filed by the applicant after the period specified in paragraph (c) of this section, provided that the information disclosure statement is filed on or before payment of the issue fee and is accompanied by:
 - (1) The statement specified in paragraph (e) of this section; and
 - (2) The fee set forth in § 1.17(p).
- (e) A statement under this section must state either:
 - (1) That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or
 - (2) That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the

information disclosure statement.

- (f) No extensions of time for filing an information disclosure statement are permitted under § 1.136. If a *bona fide* attempt is made to comply with § 1.98, but part of the required content is inadvertently omitted, additional time may be given to enable full compliance.
- (g) An information disclosure statement filed in accordance with section shall not be construed as a representation that a search has been made.
- (h) The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b).
- (i) If an information disclosure statement does not comply with either this section or § 1.98, it will be placed in the file but will not be considered by the Office.

[48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (d) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a)-(d) revised, 61 FR 42790, Aug. 19, 1996, effective Sept. 23, 1996; paras. (c)-(e) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 14865, Mar. 20, 2000, effective May 29, 2000 (adopted as final, 65 FR 50092, Aug. 16, 2000); paras. (a) through (e) and (i) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

§ 1.98 Content of information disclosure statement.

- (a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.
 - (1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed in a section separately from citations of other documents. Each page of the list must include:
 - (i) The application number of the application in which the information disclosure statement is being submitted;
 - (ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and
 - (iii) A heading that clearly indicates that the list is an information disclosure statement.
 - (2) A legible copy of
 - (i) Each foreign patent;
 - (ii) Each publication or that portion which caused it to be listed, other than U.S. patents and U.S. patent application publications unless required by the Office;
 - (iii) For each cited pending unpublished U.S. application, the application specification including the claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion; and
 - (iv) All other information or that portion which caused it to be listed.

(3)

- (i) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein.

- (ii) A copy of the translation if a written English-language translation of a non-English-language document, or portion thereof, is within the possession, custody, or control of, or is readily available to any individual designated in § 1.56(c).

(b)

- (1) Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.
- (2) Each U.S. patent application publication listed in an information disclosure statement shall be identified by applicant, patent application publication number, and publication date.
- (3) Each U.S. application listed in an information disclosure statement must be identified by the inventor, application number, and filing date.
- (4) Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.
- (5) Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, date, and place of publication.

- (c) When the disclosures of two or more patents or publications listed in an information disclosure statement are substantively cumulative, a copy of one of the patents or publications as specified in paragraph (a) of this section may be submitted without copies of the other patents or publications, provided that it is stated that these other patents or publications are cumulative.

- (d) A copy of any patent, publication, pending U.S. application or other information, as specified in paragraph (a) of this section, listed in an information disclosure statement is required to be provided, even if the patent, publication, pending U.S. application or other information was previously submitted to, or cited by, the Office in an earlier application, unless:

- (1) The earlier application is properly identified in the information disclosure statement and is relied on for an earlier effective filing date under 35 U.S.C. 120; and
- (2) The information disclosure statement submitted in the earlier application complies with paragraphs (a) through (c) of this section.

[42 FR 5594, Jan. 28, 1977; para. (a) 48 FR 2712, Jan. 20, 1983, effective date Feb. 27, 1983; 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a)(2) and (b) revised, 65 FR 57024, Sept. 20, 2000, effective Nov. 29, 2000; para. (e) added, 68 FR 38611, June 30, 2003, effective July 30, 2003; paras. (a) and (c) revised and para. (e) removed, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

through (i) revised, 69 FR 52604, Aug. 27, 2004, effective Oct. 1, 2004; revised, 70 FR 3880, Jan. 27, 2005, effective Dec. 8, 2004; paras. (f) and (s) revised, 70 FR 30360, May 26, 2005, effective July 1, 2005]

§ 1.17 Patent application and reexamination processing fees.

(a) Extension fees pursuant to § 1.136(a):

(1) For reply within first month:

By a small entity (§ 1.27(a))..... \$60.00

By other than a small entity..... \$120.00

(2) For reply within second month:

By a small entity (§ 1.27(a))..... \$225.00

By other than a small entity..... \$450.00

(3) For reply within third month:

By a small entity (§ 1.27(a))..... \$510.00

By other than a small entity..... \$1,020.00

(4) For reply within fourth month:

By a small entity (§ 1.27(a))..... \$795.00

By other than a small entity..... \$1,590.00

(5) For reply within fifth month:

By a small entity (§ 1.27(a))..... \$1,080.00

By other than a small entity..... \$2,160.00

(b) For fees in proceedings before the Board of Patent Appeals and Interferences, see § 41.20 of this title.

(c) [Reserved]

(d) [Reserved]

(e) To request continued examination pursuant to § 1.114:

By a small entity (§ 1.27(a))..... \$395.00

By other than a small entity..... \$790.00

(f) For filing a petition under one of the following sections which refers to this paragraph: \$400.00

§ 1.53 (e)—to accord a filing date.

§ 1.57 (a)—to accord a filing date.

§ 1.182 —for decision on a question not specifically provided for.

§ 1.183 —to suspend the rules.

§ 1.378 (e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741 (b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

(g) For filing a petition under one of the following sections which refers to this paragraph: \$200.00

§ 1.12 —for access to an assignment record.

§ 1.14 —for access to an application.

- § 1.47 —for filing by other than all the inventors or a person not the inventor.
- § 1.59 —for expungement of information.
- § 1.103 (a)—to suspend action in an application.
- § 1.136(b)—for review of a request for extension for extension of time when the provisions of § 1.136 (a) are not available.
- § 1.295 —for review of refusal to publish a statutory invention registration.
- § 1.296 —to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 —for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c)—for patent owner requests for extension of time in *ex parte* reexamination proceedings.
- § 1.956 —for patent owner requests for extension of time in *inter partes* reexamination proceedings.
- § 5.12 —for expedited handling of a foreign filing license.
- § 5.15 —for changing the scope of a license.
- § 5.25 —for retroactive license.
- (h) For filing a petition under one of the following sections which refers to this paragraph..... \$130.00
 - § 1.19 (g)—to request documents in a form other than provided in this part.
 - § 1.84 —for accepting color drawings or photographs.
 - § 1.91 —for entry of a model or exhibit.
 - § 1.102(d)—to make an application special.
 - § 1.138(c) —to expressly abandon an application to avoid publication.
 - § 1.313 —to withdraw an application from issue.
 - § 1.314 —to defer issuance of a patent.
- (i) Processing fee for taking action under one of the following sections which refers to this paragraph:..... \$130.00
 - § 1.28(c)(3) —for processing a non-itemized fee deficiency based on an error in small entity status.
 - § 1.41 —for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.
 - § 1.48 —for correcting inventorship, except in provisional applications.
 - § 1.52(d) —for processing a nonprovisional application filed with a specification in a language other than English.
 - § 1.53(b)(3) —to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).
 - § 1.55 —for entry of late priority papers.
 - § 1.71 (g)(2)—for processing a belated amendment under § 1.71(g).
 - § 1.99(e) —for processing a belated submission under § 1.99.
 - § 1.103(b) —for requesting limited suspension of action, continued prosecution

application for a design patent (§ 1.53(d)).

§ 1.103(c) —for requesting limited suspension of action, request for continued examination (§ 1.114).

§ 1.103(d) —for requesting deferred examination of an application.

§ 1.217 —for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.

§ 1.221 —for requesting voluntary publication or republication of an application.

§ 1.291(c)(5)—for processing a second or subsequent protest by the same real party in interest.

§ 1.497(d)—for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.

§ 3.81 —for a patent to issue to assignee, assignment submitted after payment of the issue fee.

(j) For filing a petition to institute a public use proceeding under § 1.292.....
\$1,510.00

(k) For filing a request for expedited examination under § 1.155(a)..... \$900.00

(l) For filing a petition for the revival of an unavoidably abandoned application under 35 U.S.C. 111, 133, 364, or 371, for the unavoidably delayed payment of the issue fee under 35 U.S.C. 151, or for the revival of an unavoidably terminated reexamination proceeding under 35 U.S.C. 133 (§ 1.137(a)):

By a small entity (§ 1.27(a))..... \$250.00

By other than a small entity..... \$500.00

(m) For filing a petition for the revival of an unintentionally abandoned application, for the unintentionally delayed payment of the fee for issuing a patent, or for the revival of an unintentionally terminated reexamination proceeding under 35 U.S.C. 41(a)(7) (§ 1.137(b)):

By a small entity (§ 1.27(a))..... \$750.00

By other than a small entity..... \$1,500.00

(n) For requesting publication of a statutory invention registration prior to the mailing of the first examiner's action pursuant to § 1.104..... \$920.00 reduced by the amount of the application basic filing fee paid.

(o) For requesting publication of a statutory invention registration after the mailing of the first examiner's action pursuant to § 1.104..... \$1,840.00 reduced by the amount of the application basic filing fee paid.

(p) For an information disclosure statement under § 1.97(c) or (d) or a submission under § 1.99..... \$180.00

(q) Processing fee for taking action under one of the following sections which refers to this paragraph..... \$50.00

§ 1.41 —to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by § 1.51(c)(1) in a provisional application

§ 1.48 —for correction of inventorship in a provisional application.

§ 1.53(c)(2) —to convert a nonprovisional application filed under § 1.53(b) to a